

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

- - -

DWAYNE B., a minor, by his Next
Friend, John Stempfle, et al, for
themselves and others similarly
situated,

Case No. 06-cv-13548

Plaintiff,

HON. NANCY G. EDMUNDS

v.

GRETCHEN WHITMER, in her official
capacity as Governor of the State
of Michigan, et al,

Defendant.

STATUS CONFERENCE VIA ZOOM VIDEO CONFERENCE

Detroit, Michigan
Wednesday, August 17, 2022

APPEARANCES:

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ALSO PRESENT:

Monitors Kevin Ryan and Eileen Crummy, Directors Demetrius
Starling, Elizabeth Hertel and Kelly Sesti

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1 Detroit, Michigan

2 Wednesday, August 17, 2022

3 11:03 a.m.

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5 THE CLERK: Court calls Case Number 06-13548, D.B.
6 versus Whitmer. This is the date and time set for a status
7 conference.

8 Would counsel please state their name for the record.

9 MS. BARTOSZ: Good morning, your Honor. This is
10 Samantha Bartosz from Childrens' Rights on behalf of the
11 Plaintiff class of children.

12 THE COURT: Good morning, Ms. Bartosz.

13 MR. GIOVANATTI: Good morning, your Honor. Neil
14 Giovanatti on behalf of the State. I also have with me
15 Cassandra Drysdale-Crown, Assistant Attorney General, Director
16 Elizabeth Hertel, Director Demetrius Starling and Kelly Sesti,
17 all from the department.

18 THE COURT: Good morning, everyone, and Mr. Ryan.

19 MR. RYAN: Good morning, your Honor. Kevin Ryan, one
20 of the monitors, here with my colleague.

21 Eileen?

22 MS. CRUMMY: Yes. Good morning, everyone. Eileen
23 Crummy.

24 THE COURT: Good morning. We have some observers
25 also; is that right? Yes, okay.

1 I understand that the State has a presentation they
2 would like to make with respect to steps that have been taken
3 on the Corrective Action Plans; is that right, Mr. Giovanatti?

4 MR. GIOVANATTI: Correct, your Honor. That's correct.

5 THE COURT: Let's start with that then.

6 MR. GIOVANATTI: Okay. Good morning again, your
7 Honor. Today on behalf of the department you'll hear first
8 from Director Hertel. She will be providing a general overview
9 of the department's progress towards the strategies included in
10 the Corrective Action Plan that was approved earlier this year.

11 And then Kelly Sesti, who is the director of the
12 Division of Continuous Quality Improvement, and she's also the
13 coordinator for implementing the CAPS along with Director
14 Hertel and Director Starling, she will present the PowerPoint
15 presentation which will provide a brief overview and some
16 highlights of some of the specific examples that the department
17 has implemented through the CAP process.

18 And finally, Director Starling will provide some
19 additional remarks, and then he and I will be available to
20 answer any questions the court may have.

21 Director Hertel.

22 THE COURT: Before we begin, let me just mention that
23 my understanding is that although you made great progress and
24 strides forward in formulating plans to implement their
25 Corrective Action Plan, the monitors have not had an

1 opportunity to review and validate the steps that have been
2 taken. And we're even one step further away from seeing what
3 impact those plans and policies, new plans and policies, have
4 had, and hopefully will positively have on problem areas that
5 we've identified in the past. So I'm happy to see this now,
6 but I -- even before seeing it, I think we have to recognize
7 it's a first step, not a final step.

8 DIRECTOR HERTEL: Thank you for that. And I would
9 like to thank you for this opportunity and to be able to
10 provide this update for our continued efforts to ensure our
11 children's safety. And I would also like to thank our
12 monitoring team in Children's Rights for their continued work
13 on this case. And given that comment that you just made, your
14 Honor, I think as part of moving forward we'll make sure that
15 during our planning we incorporate maybe a better communication
16 now as we continue to plan and implement these steps.

17 So at our last hearing in April the court did approve
18 a Corrective Action Plan for the areas in the MISEP where our
19 performance needs to continue to improve. And, your Honor,
20 over the last four months the department has worked hard and
21 dedicated significant resources to implement the strategies
22 outlined within this Corrective Action Plan.

23 As of July 31st of this year, the department has
24 implemented the vast majority of our CAP items, 67 of the 71 to
25 be precise. Four additional CAP items are currently in

1 progress with only one remaining CAP item scheduled to be
2 implemented this fall.

3 These efforts have led to us at the department
4 improving our contract oversight process, bridging some of our
5 gaps and services, and making some really important steps to
6 improve our child welfare system. Our progress will continue
7 as we fulfill the remaining promises in the CAP. And I remain
8 extremely engaged in this case, and my team and I are committed
9 to prioritizing the successful implementation of this
10 Corrective Action Plan.

11 For instance, I personally approve every emergency
12 shelter placement. Shelter placements are a critical area of
13 improvement for us, and I am proud of the progress on this
14 front, as we have insured that all children in shelters are
15 receiving services and are seeing decreases in the length of
16 stay for youth in shelter.

17 We have made significant strides in the last few
18 months and will continue to make improvements to our child
19 welfare system. I remain confident that through the dedicated
20 efforts of Director Starling and our Children Services staff as
21 well as our broader department staff that we will continue to
22 make the progress we hope to achieve and continue to improve
23 our performance toward the MISEP commitments.

24 I will now turn it over to Kelly Sesti who has been
25 coordinating the implementation of the strategies for the

1 department. I'm not sure if you've had the opportunity to meet
2 Kelly previously, but I'm happy to introduce you to her. Kelly
3 has worked with us in Child Welfare for 25 years, and as the
4 director of our Continuous Quality Improvement Team she is
5 empowered to hold all of us accountable on these items when we
6 fall short. Kelly does not take her responsibilities or her
7 commitment to the department in the State of Michigan lightly,
8 and as a result challenges us to continually learn, assess and
9 improve. And I am personally really excited about what the
10 leadership Kelly has provided and about the progress that I
11 think we will continue to make.

12 Kelly, I'll turn it over to you.

13 THE COURT: Nice to meet you, Ms. Sesti.

14 DIRECTOR SESTI: Thank you, your Honor. And thank
15 you, Director Hertel.

16 And, Neil, are you going to pull up the PowerPoint for
17 us?

18 MR. GIOVANATTI: Yes.

19 Lisa, you might have to give me the ability to share a
20 screen. Let me see if it works.

21 Can you see the PowerPoint?

22 DIRECTOR SESTI: We can.

23 THE COURT: Yes.

24 DIRECTOR SESTI: Thank you.

25 THE CLERK: Do you need me to do anything?

1 MR. GIOVANATTI: No, it worked.

2 THE CLERK: Okay. Good.

3 DIRECTOR SESTI: All right. Good morning, your Honor.

4 As Director Hertel indicated, my name is Kelly Sesti, and I'm
5 the department's liaison for CAP implementation as well as
6 being the director of the Division of Continuous Quality
7 Improvement.

8 In my division, we review all of the quality
9 improvement activities for our child activity programs. We
10 also complete all of the data reporting and submissions for the
11 CAP and the MISEP.

12 Today I'm going to highlight just some of the work
13 that the department has concluded over the last four months as
14 we have implemented CAP strategies. To be clear, this
15 presentation only addresses a handful of the more significant
16 CAP items that we have implemented today.

17 As Director Hertel discussed, we have implemented 67
18 different items from the CAP. The department has also provided
19 the monitoring team with comprehensive documentation and
20 evidence of our implementation of the other CAP items. Here
21 we're just going to highlight a few of these developments.

22 So first we wanted to provide a broad and current
23 overview of our foster care system. So this graph shows you
24 the number of children under the department's supervision, for
25 example, kids being in care or being monitored by the

1 department, and those are the blue bars. It also shows you the
2 number of children in out-of-home care. Those are the brown
3 bars. And the number of children removed from their families
4 along with a number of children who have exited foster care,
5 that's the yellow and red lines across the top.

6 As you can see, Michigan has continued to see a
7 decrease in the number of children under our supervision and in
8 the foster care system over the last year. Michigan currently
9 has less than 10,400 children in foster care, which is a
10 significant decrease from the onset of the lawsuit when the
11 settlement was first signed.

12 For example, in 2008 there were approximately 19,000
13 children in foster care. So we have significantly decreased
14 the number of children in care. We also continue to see the
15 number of children exiting from foster care outpacing the
16 number of children entering care. These trends show us that
17 Michigan is dedicated to safely maintaining children with their
18 parents whenever possible, and we continue to implement our
19 prevention efforts to keep kids with their families whenever
20 safely possible.

21 So of the children in out-of-home placement, a small
22 percentage are receiving treatment in a congregate care
23 setting, which are our residential facilities that we typically
24 refer to as child care institutions, or CCIs. As you can see
25 in this chart, of the total population Michigan averages around

1 4.5 percent of children placed in CCIs. According to Casey
2 Family Programs, on average usually about nine percent of a
3 state's population is placed in CCIs. Michigan is at half the
4 national average. As of June, we have less than 400 children
5 in our residential facilities, which is about 4.3 percent of
6 our population. These statistics are significant as they
7 demonstrate Michigan's continued focus on reducing the number
8 of children placed in facilities as the department continues to
9 expand our array of services for the community.

10 So this leaves me to 5.1, which is contract agency
11 evaluation. So we know that this is an area that has been of
12 special focus to the court, the monitoring team and Plaintiffs
13 as we all seek to ensure safety of children in CCIs. So 5.1 of
14 the MISEP requires the department to conduct contract
15 evaluations of all congregate care facilities in our private
16 foster care agencies. As part of the oversight, the department
17 is required to confirm that these contracted agencies are
18 providing placements and services to children to ensure their
19 safety and well-being.

20 In order to improve the department's oversight of
21 these facilities, we have created a system of review in which
22 Director Hertel and other agency leaders are now regularly
23 reviewing congregate care facilities that show a high risk
24 level. We also developed a new division within the Children's
25 Services agency to provide direct oversight of our private

1 agency foster care providers and our congregate care providers.
2 This division will work directly with the department's
3 leadership to coordinate efforts among the various units within
4 Children's Services to ensure that we have a full understanding
5 of each agencies' performance, particularly as it relates to
6 appropriate contracting decisions.

7 The new contract oversight division reports directly
8 to Director Starling and is comprised of two focus areas, the
9 first being the Residential Collaboration and Technical
10 Assistance Unit, and the second being Foster Care Contracts
11 Unit. This new division specifically will provide oversight
12 and technical assistance to the contracted agencies, develop
13 partnerships with our private agencies through increased
14 communications, monitoring and providing staff training, ensure
15 child safety through, among other things, monitoring restraints
16 and mental treatment data, assisting agencies to focus on
17 improvement of key indicators, which are critical to our
18 compliance with the lawsuit and ensuring better outcomes for
19 children. And provide contract compliance oversight with a
20 focus to improve outcomes.

21 For 6.3, the department continues to have a keen focus
22 on permanency with a continued goal of increasing the number of
23 children achieving permanency in 12 months. Over the last four
24 months, we have implemented many strategies and partnerships to
25 improve this outcome for children and families. For example,

1 we implemented a case review system to ensure that caseworkers
2 are focussed on permanency throughout the life of a case to
3 eliminate obstacles to reunification as soon as possible.
4 We've also partnered with the state court administrator's
5 office to develop juvenile court data packets to ensure that
6 our judges have access to data tracking the amount of time
7 children on their docket are in care. We will continue to
8 collaborate with our courts to reduce time and care.

9 As a department, we value the importance of placing
10 children with their siblings. For 6.6 we focus on the approval
11 process for when siblings need to be separated and our efforts
12 to reunify siblings if they are, in fact, separated.

13 So notable changes that occurred as a result of the
14 CAP include in May 2022 regional offices were charged with
15 ensuring counties were appropriately documenting and approving
16 exception requests for each sibling split. A job aid with a
17 step-by-step instruction on how to complete an exception was
18 created. And a data report is now consistently shared with all
19 the counties listing the exceptions that need to be completed.

20 Direct technical assistance was provided by the
21 regional offices to counties regarding the proper completion of
22 all timely sibling split with exceptions. Due to these
23 efforts, we've already noticed some improvement. During the
24 first month of focus, the department experienced a 17-percent
25 decrease in the number of sibling groups that were placed

1 without the required exception. This includes all sibling
2 splits, including initial and replacement requests. We've also
3 implemented a proactive quality improvement process to ensure
4 staff are appropriately documenting their efforts to reassess
5 placements of siblings that are separated.

6 All right. For 6.8 and 6.9 shelter placements has
7 been an area of struggle for the State throughout the lawsuit.
8 6.8 and 6.9 limits the length of stay in shelter placements
9 both at initial placements and if a child has to re-enter a
10 shelter placement.

11 In our CAP, Director Hertel committed to requiring her
12 personal approval of all shelter placements. The department
13 also developed a SharePoint Site to track and monitor all
14 approvals and lengths of stay. In addition, the department has
15 developed two positions to assist staff when working to
16 transition a youth from an institutional setting back into the
17 community.

18 THE COURT: Is this the area in which so much
19 publicity has been generated over the last few weeks, the
20 hospital placements of the two nine-year-old boys? Would this
21 cover that?

22 MR. GIOVANATTI: Your Honor, that issue is a little
23 bit different, and if you'd like I know Director Hertel can
24 speak to that specifically. Obviously given the
25 confidentiality concerns, we can't comment on the two specific

1 youth that were mentioned in that article, but if you would
2 like Director Hertel could comment now or at the end of the
3 presentation, whenever you --

4 THE COURT: We'll wait until the end of the
5 PowerPoint.

6 MR. GIOVANATTI: Okay.

7 THE COURT: Go ahead, Ms. Sesti.

8 DIRECTOR SESTI: Okay. Thank you. So for the next
9 slide I mentioned we as a department have a keen interest in
10 ensuring that children are discharged from shelter care as
11 quickly as possible. So we put a number of efforts into place.

12 First, we are conducting weekly meetings with a
13 regional placement unit, the responsible county staff and the
14 leadership, along with shelter representatives, to review
15 placement plans and required timeframes.

16 Second, we are sending weekly spreadsheets, including
17 -- that include all of the youth in shelter to the department
18 leadership. And this spreadsheet provides details including
19 the days in shelter, exception timeframes and placement
20 efforts.

21 And lastly, we are sending personal E-mail reminders
22 to all of our regional directors, our county directors and
23 assigned staff regarding the due dates to ensure timely
24 submissions of any exception request.

25 And the last area that I want to touch on is 6.10,

1 which focuses on ensuring home studies are completed timely for
2 relative homes. So we've made significant improvements to
3 support relative placements, including implementation of
4 improved data reports to ensure that staff are aware of
5 upcoming duties and requirements. CSA executive level meetings
6 are now held monthly to identify and assess barriers for
7 low-performing agencies.

8 From January of 2022 through June, almost 1,500 cases
9 required a completed home assessment. Of those, 95 percent of
10 those assessments were completed and 71 percent were completed
11 timely, which is a significant improvement to our historic
12 performance. The department also developed Kinship Support
13 Specialist positions in all five of our regions to specifically
14 support relative and kin caregivers. And I'm happy to say that
15 over 289 relative and kin caregivers have been served by these
16 workers already.

17 All right. With that, unless you have any questions
18 from me, I can turn it over to Director Starling.

19 MR. GIOVANATTI: Thank you. Director Hertel, do you
20 want to address the hospital issue first?

21 DIRECTOR HERTEL: Yeah, I certainly can.

22 We have seen over the last I would say 10 to 12 years,
23 an increase in the number of children who are going to
24 emergency departments because of acute behavioral health
25 episodes. And generally, you know, things are an emergency.

1 People take children to the emergency room. However, they're
2 not actually able to be admitted into a regular inpatient bed.
3 They either need a psychiatric inpatient bed or some other sort
4 of crisis stabilization placement. And we do not have adequate
5 number of placements for behavioral health stabilization at
6 this point, and we continue to see the number of children
7 waiting or on waiting lists increase.

8 And the two children who were discussed in that
9 article were in that situation. They are -- they were wards of
10 the State. However, we do see that often in many -- probably
11 all of our emergency departments at this point.

12 We have taken -- this is something, like I said, it's
13 ongoing. It's been occurring for a very long time, and we
14 recognize that. In the Governor's executive recommendation for
15 fiscal year '23, she requested significant funding, around 40
16 million dollars, to be able to invest in providers being able
17 to build out additional placements for children when it comes
18 to behavioral health. Thirty-five million dollars was approved
19 in the fiscal year '23 budget, and we are in the planning
20 processes of being able to distribute those funds out to
21 providers to build that capacity up.

22 So we do recognize that again as an issue, and it has
23 been one for a long time and are working to be able to address
24 that.

25 THE COURT: That's good to hear. Do you have any

1 sense of how many children are in that limbo that you just
2 described waiting for an appropriate placement?

3 DIRECTOR HERTEL: If I had to guess, I would guess
4 every single hospital in the state of Michigan and probably
5 across the country has at least one child in an emergency
6 department right now that's looking for placement.

7 MR. GIOVANATTI: Just to be clear, your Honor, that
8 doesn't -- that's all kids, not necessarily foster children, to
9 be clear.

10 DIRECTOR HERTEL: Thanks Neil, yes.

11 MR. GIOVANATTI: Yeah.

12 THE COURT: You don't have a good number that you
13 can --

14 DIRECTOR HERTEL: We don't track that number. It's
15 not a reportable number. And because they're in an emergency
16 department and they're not admitted they're not billing. So we
17 can't identify it through claims, because they're not actually
18 getting paid for those children.

19 So we do work closely with the Michigan Hospital
20 Association in Michigan, but we have not started keeping
21 account on that exactly. We have a -- we can go into a lot
22 more detail, but we actually have a pilot through another
23 program here to identify why people are having difficulty
24 finding placements. And we were able to track from a small
25 pilot the numbers that we thought a couple years ago, but it's

1 very pervasive.

2 THE COURT: Okay. Thank you. It's one of those
3 issues that I guess still has to be taken up with more
4 activity, which is not to say there hasn't been activity, just
5 that it needs further work.

6 Director Starling, your turn.

7 DIRECTOR STARLING: Thank you, your Honor, and thank
8 you, Director Hertel, for the additional information and
9 Director Sesti for her very concise and wonderful overview in
10 the PowerPoint presentation.

11 So as you may have seen in the presentation, the
12 department is making really great strides to address some of
13 the actions outlined in our Corrective Action Plan. There were
14 71 individual Corrective Action Plan items that were due as of
15 July 31st of this year. Of those 67, which equates to about
16 94.4 percent, have been completed at this time.

17 So echoing Director Hertel's comments, I strongly
18 believe that the Corrective Action Plan will help the
19 department achieve compliance with the associated 14 MISEP
20 commitments. It is through the efforts of the department staff
21 and our private partners that we've been able to achieve these
22 results.

23 We are very optimistic that through the implementation
24 of the Corrective Action Plans additional commitments will move
25 towards compliance. We continue to work closely with the

1 monitors regarding safety in our CCI facilities, and we've
2 identified in the CAP for commitment 5.1 some very significant
3 steps, including the creation of the division of child safety
4 and program compliance, which houses the residential
5 collaboration and technical assistance unit, focusing on
6 contracted CCIs and the foster care contracts unit focusing on
7 contracted child placing agencies.

8 In addition to the work on the Corrective Action Plan,
9 the department has been focusing on our prevention efforts in
10 the front end and redesign of our child welfare system that
11 focuses on children remaining with their families whenever
12 safely possible. We continue to have a focus on strong case
13 practice, ultimately knowing this is essential for long-term
14 sustainable success of our child welfare assistive programs.

15 By implementing the strategies identified in the
16 Corrective Action Plans we will make substantial progress to
17 improve the department's performance and, more importantly, we
18 believe these strategies will improve safety for our children
19 and decrease the time to permanency for children in the
20 department's care.

21 So with that, your Honor, if you have any questions we
22 would be happy to answer those.

23 THE COURT: No, I don't have any additional questions.
24 I'd be happy to hear from Ms. Bartosz.

25 MS. BARTOSZ: Thank you, your Honor. We appreciate

1 the presentation by the department with respect to the efforts
2 its made to implement the Corrective Action Plan, and on behalf
3 of Plaintiffs we're hopeful that these efforts bring about the
4 positive changes that they're intended to. And so thank you
5 for that update once again, Defendants, and we're enthused to
6 hear about the hard work that is underway.

7 Your Honor, as you noted at the beginning of this
8 hearing, we await, all of us, the monitors' validation efforts
9 with respect to these efforts and the performance outcomes.
10 And so Plaintiffs will await that before commenting anymore
11 substantively on progress made, but it's our hope that these
12 efforts really bring about major positive change.

13 THE COURT: Thank you, Ms. Bartosz.

14 Mr. Ryan, Ms. Crummy, do you have anything that you
15 would like to say before I comment?

16 MR. RYAN: I don't have anything, your Honor.

17 Eileen?

18 MS. CRUMMY: No. No, your Honor.

19 THE COURT: Well, I am pleased and optimistic. I
20 think everyone seems to be heading in the right direction with
21 the same goal in mind. My suggestion is that the parties meet
22 toward the end of October after the monitors have had an
23 opportunity to review all of the very substantial number of
24 documents and outlines and underlying data that has accumulated
25 as they begun implementing these Corrective Action Plans and

1 policies. That meeting itself would not include me, but the
2 monitors could report back -- will I guess report back to me on
3 what progress they have seen by the end of October or toward
4 the end of October, I would say two, two and a half months from
5 today. And then we would all meet in January with Mr. Ryan and
6 Ms. Crummy having given whatever change in direction they feel
7 is warranted after their review or no change in direction.
8 Everyone could have some input at the October meeting.
9 Monitors would report back to me what occurred, and then we
10 would all meet early in January to see where we are. Hopefully
11 we're in a good place, or certainly it looks like a better
12 place than we were a year ago.

13 Anyone have any comment on that suggestion?

14 MR. GIOVANATTI: Your Honor, just one question. This
15 might be for Mr. Ryan and Ms. Crummy as well. The next MISEP
16 report, MISEP 21, would -- I think it would be due in November
17 or maybe early December. We -- the department is -- that
18 report will likely -- it doesn't cover any time period that
19 would have been covered by the Corrective Action Plan. It
20 covers July of '21 through December of '21.

21 So again, the Corrective Action Plan started in '22
22 so it wouldn't cover any of that time period. The data will
23 likely be somewhat stale, but traditionally we have a hearing
24 when that report is issued. I just wanted to hear from the
25 court. And maybe, Kevin, you can chime in here about how you

1 wanted to handle that report.

2 THE COURT: We could maybe combine the January meeting
3 with the review of the MISEP report and the Corrective Action
4 Plan, but, Mr. Ryan or Ms. Crummy, your thoughts?

5 MR. RYAN: Judge, the only validated data that we'll
6 have realtime will be the result of the case record review
7 that's underway now where the department is sharing its
8 completed abuse or neglect substantiation investigations with
9 us, or unsubstantiation investigations with us, and then we're
10 reviewing them and talking with the department about that. I
11 think the department hopes to have final data to us in February
12 of '23. So we would be in a position to report to you on kind
13 of realtime information at that time, you know, end of
14 February, early March. Otherwise, the --

15 THE COURT: You're talking about for the MISEP period?

16 MR. RYAN: Yeah. In terms of assessing the impact of
17 these various corrective actions, the department won't even be
18 giving us its performance data corresponding to this period
19 until March or April of 2023. So we won't even be able to see
20 what that looks like.

21 I'm not sure, Neil, whether you're proposing you all
22 getting it to us sooner and we would validate that or what
23 you're thinking. But essentially the plan would be to come to
24 court with our MISEP report for the 2021 period. You would be
25 talking about your corrective actions. And then I think what

1 the court will have at that point is many periods of
2 performance post the adoption of the MISEP and a pretty clear
3 trend line on those areas that are performing at standard or
4 above, those that are near and those that are not. And I think
5 that would give the court an opportunity to guide us all on how
6 to rethink the MISEP, whether to rethink it at all.

7 MR. GIOVANATTI: I understand. I brought up the MISEP
8 '21 report, because that one is kind of going to be stuck in
9 the middle. I hear what you're saying, Kevin, about the MISEP
10 '22 report, which will cover a period impacted by the CAPS, but
11 the '21 report is kind of in the middle there without any
12 direction.

13 So I think we can talk offline, though, about the
14 specific timing of the '22 report and figure out exactly how we
15 can get that data to you as soon as possible so we can have a
16 more realtime report.

17 THE COURT: I'm flexible about whether we do this in
18 combination -- a presentation in combination in terms of the
19 reports or separate and what the timing is. What I do care
20 about the most, at least right now, is having a sense of
21 whether the progress made on the Corrective Action Plan has
22 been validated and what impact it's had. Hopefully by January
23 we'll have some sense of that, even if it's not final data.

24 MR. RYAN: I don't think we will, your Honor, unless
25 the State is able to get us data and information on its actual

1 performance on these CAP items very soon. So I'll leave it to
2 the State to make a determination about what it's able to share
3 performance information with us soon, but it typically takes a
4 significant period of time for that to be generated. So I
5 think you all perhaps go back, huddle, let us know how soon you
6 can have that information to us.

7 MR. GIOVANATTI: I guess just one additional comment
8 on that, your Honor. I think we can certainly present
9 information of did we actually do the things required in the
10 CAPS. I think we sent a large packet of information over to
11 the monitors in advance of this hearing and to Plaintiffs as
12 well.

13 In terms of actually seeing the impact in data, we
14 could probably have some preliminary figures by January, but in
15 terms of the actual standard MISEP data points what -- I agree
16 with Mr. Ryan. There's a significant lag on those points, but
17 I -- we're happy to talk to Kevin offline about trying to speed
18 that process up.

19 MR. RYAN: Just to give you a for example. So
20 Director Hertel talked about this heightened level of review
21 and prior approval for children going into emergency shelters.
22 So we would be able to see the shelter authorization forms and
23 we can say, yes, it looks like that's happening. Whether or
24 not that means fewer kids are ending up in shelters and how
25 long they're staying, that's the data you all have. If you

1 could get that to us, you know, the first week in January
2 instead of the traditional 90-day period after the period ends
3 we can dig into that more quickly, and I think that would be
4 true for each of the CAP items.

5 THE COURT: Well, as I said, I'm flexible about
6 whether you need an extra 30 or 60 days at some point. As long
7 as we stay on top of this and we do meet sometime in the first
8 couple of months of 2023. And Mr. Ryan and Ms. Crummy can act
9 as liaisons between the parties and the court and let me know
10 where you are and what you think the best time for presentation
11 and evaluation is.

12 MS. CRUMMY: Thank you, your Honor.

13 THE COURT: Okay. Are you all good with that?

14 MR. GIOVANATTI: Yes, your Honor.

15 MR. RYAN: Yes, your Honor.

16 THE COURT: Thank you. Anything further we can do
17 today?

18 MR. GIOVANATTI: Nothing further from Defendants.

19 THE COURT: All right. Keep in touch.

20 THE CLERK: We're adjourned.

21 (The proceedings were adjourned at 11:39 a.m.)

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CERTIFICATE OF COURT REPORTER

I, Sheila D. Rice, Official Court Reporter of the United States District Court, Eastern District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing pages is a correct transcript from the record of proceedings in the above-entitled matter.

s/Sheila D. Rice

Sheila D. Rice, CSR-4163, RPR, RMR
Federal Official Court Reporter
United States District Court
Eastern District of Michigan

Date: 10/12/2022
Detroit, Michigan